

GAO

Report to the Co-Chairman, Caucus on  
International Narcotics Control  
U.S. Senate

November 2001

CUSTOMS AND INS

Comparison of  
Officers' Pay

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#### **Abbreviations**

|       |  |
|-------|--|
| COPRA | Customs Officers Pay Reform Amendments |
| COSS  | Customs Overtime Scheduling System     |
| INS   | Immigration and Naturalization Service |



**United States General Accounting Office  
Washington, DC 20548**

November 13, 2001

The Honorable Charles E. Grassley  
Co-Chairman, Caucus on International  
Narcotics Control  
United States Senate

Dear Mr. Chairman:

In January 2001, we reported to you about the effects of proposed legislation on U.S. Customs Service officers' night pay,<sup>1</sup> the first of the two issues that we agreed to report on in response to your request. This report focuses on the second issue, differences in Customs and Immigration and Naturalization Service (INS) officers' pay.<sup>2</sup> Our objectives were to (1) identify the differences in Customs and INS officers' pay provisions, focusing on overtime and premium pay<sup>3</sup> and (2) determine the effects of some of the differences on officers' pay.

To address our first objective, we compared Customs and INS pay provisions and identified differences in the provisions, with emphasis on how officers are paid overtime and premium pay. To address our second objective, we analyzed selected Customs and INS officers' work schedules, shifts, and pay for two federal pay periods covering 4 weeks in January and February 2001.<sup>4</sup> We conducted our analysis at one port of entry<sup>5</sup> and selected six examples of different work schedules to compare officers' pay. Our analysis involved obtaining the officers' work schedules, shifts, and pay for the two federal pay periods and comparing the amount officers were paid with the amount they would have been paid under the other agency's pay provisions. Our analysis of the effects of different provisions on selected officers' pay does not include all the differences

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<sup>1</sup>*Customs Service: Effects of Proposed Legislation on Officers' Pay* (GAO-01-304, Jan. 31, 2001).

<sup>2</sup>Throughout this report, when we use the term "officer" as defined under current law (19 U.S.C. 267 (e) for Customs and 8 U.S.C. 1101 (a)(18) for INS), we are referring to both Customs and Immigration inspectors.

<sup>3</sup>For this report, premium pay consists of Sunday, holiday, and night differential pay.

<sup>4</sup>We selected these two pay periods because they allowed us to assess overtime, Sunday, holiday, and night pay.

<sup>5</sup>San Ysidro land border crossing near San Diego, CA.

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between the two pay systems. For example, we did not analyze the effects of Customs' foreign language proficiency award on officers' pay. Our comparisons are illustrative of some differences in the two pay systems and their effects on officers' pay, but they are not intended to provide generalizable findings.

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## Results in Brief

As an outgrowth of different governing legislation, Customs and INS have a wide variety of pay provisions directing how pay for officers is calculated. These include different provisions on payment for overtime, Sunday, holiday, and night work. Fundamental differences in how work is scheduled and how hours are counted also result in pay differences. Foreign language proficiency awards and the inclusion of overtime pay for retirement purposes are two other examples of pay provisions that apply to officers of one agency and not the other.

For overtime, Sunday, and holiday work, Customs officers are generally paid for hours actually worked, whereas INS officers are often paid based on minimum periods of time worked. For example, for scheduled work on Sundays, Customs officers are paid at 1.5 times their basic hourly pay rate for hours actually worked. In contrast, INS officers receive 2-days' pay for any increment of time—8 or fewer hours—worked on a Sunday.

Night pay is also fundamentally different. Customs officers can receive night pay for a wider range of hours and can earn night pay at higher rates. Customs officers can be paid night pay for 8-hour shifts starting as early as 12 noon and receive night differential pay while on annual, sick, or other leave. INS officers' night pay is limited to hours worked between 6 p.m. and 6 a.m., and they do not receive night differential pay when on extended leave—for 8 or more hours a pay period.

Foreign language awards and the inclusion of overtime pay in calculating retirement benefits are two additional examples of pay provisions that apply to officers of one agency and not the other. Customs officers who use a foreign language when performing their inspection duties are paid a differential or "award," while foreign language proficiency is a condition of employment for INS officers. Customs officers working overtime increase their retirement annuity because overtime up to \$15,000 per year is considered part of base pay for calculating officers' retirement annuities. INS does not include overtime in calculating retirement benefits.

Because Customs and INS also schedule work differently, it is difficult to compare the two systems and to analyze the effects of differences in the two systems on officers' pay. Our six comparisons of Customs and INS

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officers' work schedules and pay at the San Ysidro, CA, port of entry showed that differences in pay varied depending on schedules and shifts worked.

For example:

- A GS-11,<sup>6</sup> step 7, San Ysidro INS officer who worked a 3 p.m.-to-12 midnight shift during a 2-week pay period earned a total of \$3,023, including \$139 in night differential pay. Under Customs' pay provisions, assuming the same work schedule, the INS officer would have earned a total of \$3,193; \$170 more than the INS officer's actual pay. The difference resulted from Customs' higher night differential pay rates and the greater number of night differential hours paid.
- In contrast, we found that a GS-11, step 7, San Ysidro Customs officer who worked an 8 a.m.-to-4 p.m. shift, including two Sundays, would earn more under INS pay provisions than the officer actually earned under Customs pay provisions. The Customs officer earned a total of \$3,567 for the pay period. Under INS pay provisions, the Customs officer would have earned a total of \$4,348; an additional \$781. The difference was primarily because the officer would have been paid 32 additional hours of overtime for 16 hours of overtime worked on two Sundays under INS provisions, in addition to pay for regularly scheduled hours.

Our comparisons demonstrate only a small fraction of the combinations of work schedules and shifts that are, and can be, worked by Customs and INS officers in the field. Therefore, we must caution that our comparisons may not be representative of Customs and INS operations nationwide, but they do illustrate differences in the two pay systems. Moreover, they demonstrate that straightforward and generalizable comparisons in relation to these pay provisions are infeasible.

We provided the Customs Service and INS with a draft of this report. Their written comments are discussed in our Agency Comments section on page 12.

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## Background

The U.S. Customs Service and INS work closely together to perform their diverse missions at the nation's ports of entry. Customs officers' responsibilities include (1) collecting revenue from imports, (2) inspecting

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<sup>6</sup> GS stands for the General Schedule pay plan.

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all cargo entering the country, (3) enforcing Customs and other U.S. laws and regulations, and (4) preventing the smuggling of drugs and other contraband into the United States. INS officers' responsibilities include (1) conducting inspections of travelers entering the United States to ensure that all who enter have appropriate documentation, (2) denying entry to those who are not legally admissible, and (3) enforcing all immigration laws related to the immigration and naturalization of noncitizens. Both agencies are cross-designated to enforce each other's respective areas of responsibility, and consequently, both Customs and INS officers interdict inadmissible aliens, contraband, and drugs.

At the close of fiscal year 2000, Customs had a permanent workforce of about 20,000 employees, including about 8,000 Customs officers. These employees carry out Customs' mission at its headquarters, 20 Customs Management Centers, 20 Special Agent-in-Charge offices, 301 U.S. ports of entry, 5 Strategic Trade Centers, and over 25 international offices. Customs processed over 23 million import entries, with a value of \$1.17 trillion; 140 million conveyances;<sup>7</sup> and 489 million land, sea, and air passengers in fiscal year 2000.

The operational and management functions of INS are administered through INS headquarters, which oversees approximately 29,000 employees through three Regional Offices and a headquarters-based Office of International Affairs. These offices are responsible for directing the activities of 33 districts and 21 Border Patrol sectors throughout the United States and three district offices and 39 area offices outside U.S. territory. In March 2000, INS had over 5,000 officers staffing the country's ports of entry. In fiscal year 2000, INS carried out immigration inspections for nearly 438 million travelers at the land borders and nearly 92 million travelers at airports and seaports.

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## Scope and Methodology

To identify the differences between the Customs and INS systems for paying overtime and premium pay to their officers, we researched the current laws and regulations pertaining to both agencies' overtime and premium pay. We interviewed key officials from several Customs and INS organizations, including Customs' Offices of Finance, Field Operations, and Human Resource Management and INS' Offices of Human Resources and Development, Inspections, and Budget Systems and Reports Branch. We also reviewed other documents, such as a 1998 Congressional

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<sup>7</sup>Conveyances include aircraft, trucks, trains, passenger vehicles, and ocean vessels.

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Research Service report comparing Customs and INS overtime and premium pay.<sup>8</sup>

We also visited the South Pacific Customs Management Center and the INS District Office, both in San Diego, CA, and the San Ysidro port of entry, which is the largest and busiest land border port in the world. (See app. I for a profile describing the workload and workforce at the San Ysidro port of entry.)

To determine the effect of differences in the two systems on officers' pay, we analyzed some Customs and INS officers' work schedule and pay data at the San Ysidro port of entry. We compared work schedules, shifts, and pay for federal pay periods 2 and 3, covering 4 weeks in January and February 2001.

We selected these two pay periods because they allowed us to assess the effects of the differences in overtime, Sunday, holiday, and night pay. Our analysis involved obtaining the officers' work schedules, shifts, and pay for the two pay periods and comparing the amount officers were paid with the amount they would have been paid under the other agency's pay provisions.

We obtained work schedules, shifts, and pay data for Customs officers from Customs' central pay database, the Customs Overtime Scheduling System (COSS), which contains detailed information of officers' overtime and premium pay. For INS, we obtained planned work schedules from the Finalized Schedule Report and actual work schedules and shift data from the Time & Attendance Worksheet and the Inspection Overtime Order Report and Certification forms at the port. We obtained pay data for INS officers at San Ysidro from their Budget Systems and Reports Branch at INS headquarters.

We developed three pay comparisons based on Customs officers' work schedules, shifts, and pay and three based on INS officers' work schedules, shifts, and pay. From each agency, we judgmentally selected two GS-11, step 7 officers, and one GS-9, step 4 officer. GS-11 and GS-9 officers were selected because they are the predominant grade levels at the port. We selected officers who worked on the most heavily staffed shifts at San Ysidro, whose work schedules or shifts we believed would best illustrate

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<sup>8</sup>CRS, *Overtime and Premium Pay for U.S. Customs Service Officers Compared with Immigration and Naturalization Service Officers* (June 3, 1998).

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the differences in specific pay elements including Sunday, holiday, and night differential pay.

Customs and INS payroll specialists with expertise in time and attendance reporting assisted us in calculating our comparisons. The officers manually performed calculations to determine how much overtime and premium pay the selected officers would have been paid under their agency's pay provisions, assuming the same pay grades and that similar schedules were worked. The officers documented and explained their calculations based on Customs and INS pay provisions.

Our comparisons were complicated by difficulties in obtaining agency-wide shift and payroll data at INS and the need to manually calculate and verify the pay estimates with the assistance of the Customs and INS payroll specialists at San Ysidro. Moreover, the comparisons demonstrate only a small fraction of the combinations of work schedules and shifts that are, and can be, worked by Customs and INS officers in the field. Therefore, we must caution that our comparisons may not be representative of Customs and INS operations nationwide. They demonstrate, however, that straightforward and generalizable comparisons in relation to these pay provisions are infeasible. Tables showing the effects of the differences in pay systems for each of our comparisons are shown on pp. 11-12 and in appendix II.

We performed our work between February 2001 and September 2001 in accordance with generally accepted government auditing standards.

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## Comparison of Customs and INS Officers' Pay Provisions

For many years, Customs and INS officers were paid under similar systems. Customs was governed by the Act of February 13, 1911 (36 Stat. 899, 901), which is commonly referred to as the "1911 Act," and INS by the Act of March 2, 1931 (46 Stat. 1467), referred to as the "1931 Act." The 1931 legislation was intended to bring overtime pay for INS officers to a level comparable to that of Customs officers under the 1911 Act. In 1993, Congress passed legislation providing for Customs officer pay reform; the INS officers' pay system was not addressed in the legislation. The Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66) changed the overtime and premium pay system for Customs officers. The Customs Officers Pay Reform Amendments (COPRA) provisions of P.L. 103-66 amended the 1911 Act. Overtime and premium pay for most other federal employees is governed by the Federal Employees Pay Act of 1945, referred to as the "1945 Act," as amended. Under certain circumstances, INS officers are also compensated for overtime under the 1945 Act.

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Table 1 shows differences between Customs and INS pay provisions and explains some terms used when referring to certain provisions and pay calculations.

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**Table 1: Summary Comparison of Pay Provisions and Terms Used by Customs and INS**

| Pay provision/term                | Customs  | INS  |
|-----------------------------------|--|--|
| Basic pay                         | General Schedule pay with locality pay adjustment based on geographic area.  | Same as Customs.   |
| Basic hourly rate                 | General Schedule hourly rate with locality pay included.   | Same as Customs.   |
| Basic overtime                    | Compensation in addition to basic pay for work in excess of the 40-hour regularly scheduled work week or work in excess of 8 hours in a day. Overtime pay is 2 times the basic hourly rate—a 100-percent premium (COPRA).  | Compensation in addition to basic pay for work in excess of the 40-hour regularly scheduled workweek. Applies to inspection overtime hours worked between 5:00 p.m. and 8:00 a.m., Monday-Saturday and anytime on Sunday or a holiday. Overtime pay is 4 hours pay for each additional 2 hours or fraction thereof (1931 Act). |
| Other overtime                    | Not applicable.  | Compensation in addition to basic pay for (1) overtime inspection work between 8:00 a.m. and 5:00 p.m. Monday-Saturday and (2) non-inspection overtime outside these hours. Overtime is paid at 1.5 times the basic hourly rate (50-percent premium.) Maximum rate is based on salary for GS-10, step 1—(the 1945 Act, FEPA).  |
| Premium pay                       | Overall term referring to extra compensation or "premium" paid for work performed on Sunday, holiday, or at night. (The term does not cover overtime pay.)   | In addition to Sunday, holiday, and night pay, INS includes overtime in its definition of premium pay.   |
| Sunday pay                        | Premium paid in addition to basic hourly rate for Sunday work. Sunday pay is 1.5 times the basic hourly rate (50-percent premium). Sunday can be a regularly scheduled workday. Officers are paid for actual hours worked.   | Compensation for Sunday work. Sunday pay is 2-days' pay for 8 or fewer hours worked. Sunday is not a regularly scheduled workday. Sunday work is scheduled in addition to the regular workweek and is always staffed with overtime. INS officers are paid based on minimum periods of time worked.                             |
| Holiday pay                       | Premium paid in addition to basic hourly rate for work on a holiday. Holiday pay is 2 times the basic hourly rate (100-percent premium).   | Premium paid in addition to basic hourly rate for work on a holiday. Two days' pay for 8 or fewer hours worked (Mon.–Sat.) in addition to basic pay.   |
| Night pay<br>(night differential) | Premium paid in addition to basic hourly rate for night work. Night differential pay rates differ based on the time or shift hours worked. Officers paid 1.15 or 1.2 times the basic hourly rate (15- or 20-percent differential). "Majority of hours" provision applies depending on actual hours worked (see table 2). | Premium paid in addition to basic hourly rate for night work. Officers are paid 10-percent premium or "differential" for hours worked between 6 p.m. and 6 a.m.  |

| <b>Pay provision/term</b>                       | <b>Customs</b>  | <b>INS</b>  |
|---|---|---|
| Night pay on leave                              | Customs pays night differential to officers assigned to night shifts when they are on annual, sick, or other leave.   | INS pays limited night differential (if less than 8 hours per pay period) to officers assigned to night shifts when they are on leave. INS does not pay night differential to officers on vacation (extended annual leave). |
| Commute compensation                            | Compensation for returning to work (commute) to perform an overtime work assignment.<br>Commute compensation is 3 times the basic hourly rate.                  | Not authorized.   |
| Callback  | Additional overtime paid for reporting early or returning to work for unscheduled inspections.<br>Callback is 2 times the basic hourly rate.                    | See rollback.   |
| Rollback  | See callback.   | Additional overtime paid for reporting early or returning to work for unscheduled inspections.<br>Rollback is 2-hours' additional pay at basic overtime rate.   |
| Foreign language proficiency award              | Premium paid for proficiency and use of foreign language while performing inspection duties.<br>Foreign language award is between 3 and 5 percent of basic pay. | Not authorized.   |
| Retirement annuity (overtime earnings included) | Customs includes overtime earnings in calculating retirement pay. Currently, overtime included may not exceed \$15,000 annually.                                | Not authorized.   |
| Alternate work schedule                         | Regularly scheduled work during a pay period based on a 9- or 10-hour workday totaling 80 hours per pay period (every 2 weeks). <sup>a</sup>                    | Same as Customs. <sup>b</sup>   |

<sup>a</sup>Current policy at the Port of San Ysidro is that officers do not work an alternate work schedule. Officers work five 8-hour days, 40 hours per week, 80-hours per pay period.

<sup>b</sup>Currently INS officers do work an alternative work schedule at the Port of San Ysidro.

Source: GAO analysis.

Table 2 shows that Customs and INS have different provisions for overtime and pay for Sunday, holiday, and night work. The systems are not easy to compare because pay rates and time periods that count toward overtime and night differential pay also differ.

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**Table 2: Comparison of Customs and INS Overtime and Premium Pay Provisions**

| Provision                    | Customs   | INS   |
|------------------------------|---|---|
| Basic overtime pay           | 2 times the hourly rate for actual hours worked. <sup>a</sup>   | 4 hours pay for each additional 2 hours (or fraction thereof) worked. |
| Total Sunday pay             | 1.5 times the hourly rate for actual hours worked.  | 2 days pay for 8 or fewer hours worked.                               |
| Total holiday pay            | 8 hours basic pay plus 1 hour of holiday pay for each hour actually worked.   | 2-days' pay for 8 or fewer hours worked in addition to basic pay.     |
| Total night pay <sup>b</sup> | For 3 p.m.– 12 midnight: 1.15 times the hourly rate.<br>For 11 p.m.–8 a.m.: 1.2 times the hourly rate.<br>For 7:30 p.m.–3:30 a.m.: 1.15 times the hourly rate between 7:30 p.m. and 11:30 p.m. and 1.2 times the hourly rate between 11:30 p.m. and 3:30 a.m. | 1.10 times the hourly rate from 6 p.m.–6 a.m.                         |

<sup>a</sup>Customs includes overtime in calculating retirement benefits

<sup>b</sup>For Customs night pay, when the "majority of hours" fall within the hours shown above, the night differential applies for the entire shift. As such, shifts starting as early as noon can receive night differential pay for an entire 8-hour shift.

Source: GAO analysis of Customs and INS pay provisions.

Table 3 shows a comparison of the hours of overtime worked versus the number of hours paid under Customs and INS pay provisions. The primary difference between the two overtime provisions is that Customs pays double the hourly rate for actual hours worked, while INS can pay more than double-time depending on the number of hours worked.

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**Table 3: Comparison of Overtime Hours Worked Versus Hours Paid**

| Overtime hours worked | Customs hours paid <sup>a</sup> | INS hours paid |
|-----------------------|---------------------------------|----------------|
| 1                     | 2                               | 4              |
| 2                     | 4                               | 4              |
| 3                     | 6                               | 8              |
| 4                     | 8                               | 8              |
| 5                     | 10                              | 12             |
| 6                     | 12                              | 12             |
| 7                     | 14                              | 16             |
| 8                     | 16                              | 16             |

<sup>a</sup>Customs includes overtime in calculating retirement benefits.

Source: GAO analysis of Customs and INS pay provisions.

Table 4 shows a comparison of Sunday pay under Customs and INS pay provisions. The major difference is that Customs pays 1.5 times the hourly rate for actual hours worked; INS provides 2-days' pay for 8 or fewer hours worked.

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**Table 4: Comparison of Sunday Hours Worked Versus Hours Paid**

| <b>Hours worked</b> | <b>Customs hours paid</b> | <b>INS hours paid</b> |
|---------------------|---------------------------|-----------------------|
| 1                   | 1.5                       | 16                    |
| 2                   | 3.0                       | 16                    |
| 3                   | 4.5                       | 16                    |
| 4                   | 6.0                       | 16                    |
| 5                   | 7.5                       | 16                    |
| 6                   | 9.0                       | 16                    |
| 7                   | 10.5                      | 16                    |
| 8                   | 12.0                      | 16                    |

Source: GAO analysis of Customs and INS pay provisions.

Table 5 shows a comparison of holiday pay under Customs and INS pay provisions. The primary difference again is that Customs pays 8 hours basic pay plus one hour of holiday pay for each additional hour worked; INS provides 2-days' pay for 8 or fewer hours worked in addition to basic pay when the holiday falls on a workday other than Sunday.

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**Table 5: Comparison of Holiday Hours Worked Versus Hours Paid**

| <b>Hours worked</b> | <b>Customs hours paid</b> | <b>INS hours paid</b> |
|---------------------|---------------------------|-----------------------|
| 1                   | 9                         | 24                    |
| 2                   | 10                        | 24                    |
| 3                   | 11                        | 24                    |
| 4                   | 12                        | 24                    |
| 5                   | 13                        | 24                    |
| 6                   | 14                        | 24                    |
| 7                   | 15                        | 24                    |
| 8                   | 16                        | 24                    |

Source: GAO analysis of Customs and INS pay provisions.

Two other differences between Customs and INS pay provisions involve extra pay for foreign language proficiency and consideration of overtime in calculating retirement benefits. Customs pays officers an award of between 3 and 5 percent of basic pay for using a foreign language on the job, while foreign language proficiency is a condition of employment for INS officers. Customs also includes overtime up to a maximum of \$15,000 in calculating retirement benefits; INS does not.

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## Effect of Differences in Customs and INS Pay Provisions Varied Depending on Schedules and Shifts Worked

Our six comparisons of Customs and INS officers' overtime and premium pay showed that the effect of differences in pay provisions varied based on schedules and shifts worked. For example, a GS-11, step 7, San Ysidro INS officer who worked the 3 p.m.-to-12 midnight shift and two Sundays during the pay period would have earned \$170 more under Customs pay provisions. The shaded area of table 6 highlights the primary difference—Customs' higher night differential pay rate and the greater number of hours that the officer was eligible for night differential pay. (See app. II for additional comparisons.)

**Table 6: Comparison of GS-11, Step 7, INS Officer's Earnings and Estimated Pay Under Customs Provisions for Pay Period 2, 2001**

| Pay provision                  | INS                      | Customs (est.) | Difference    |
|--------------------------------|--------------------------|----------------|---------------|
| Basic pay                      | \$2,060                  | \$2,060        | 0             |
| 80 @ \$25.75 hourly rate       | 80 @ \$25.75 hourly rate |                |               |
| Overtime (Sunday) <sup>a</sup> | \$824                    | \$824          | 0             |
| 16 x 2 x hourly rate           | 16 @ 2 x hourly rate     |                |               |
| Night pay <sup>b</sup>         | \$139                    | \$309          | +\$170        |
| 54 @ 0.10 x hourly rate        | 80 @ 0.15 x hourly rate  |                |               |
| <b>Total pay</b>               | <b>\$3,023</b>           | <b>\$3,193</b> | <b>+\$170</b> |

<sup>a</sup>The INS officer's Sunday pay was in addition to 80 hours of regularly scheduled work in the pay period. If working under Customs pay provisions, the officer would have been paid overtime at 2 times the hourly rate for the same hours, rather than 1.5 times the hourly rate (hourly rate plus 50-percent Sunday premium), because the officer worked the Sunday hours in addition to the regularly scheduled work week.

<sup>b</sup>The INS officer received a 10-percent night differential for 54 hours worked between 6 p.m. and 6 a.m. Under Customs pay provisions, because the majority of hours worked were between 3 p.m. and midnight, the officer would have been paid a 15-percent night differential for the entire shift worked. The officer would have been paid a 15-percent night differential for 80 hours.

Source: GAO analysis of Customs and INS data.

On the other hand, a GS-11, step 7, San Ysidro Customs officer who worked the 8 a.m.-to-4 p.m. shift that included two Sundays during the pay period and overtime during the week and on Sunday would have earned \$781 more under INS pay provisions. INS must pay overtime on Sunday and schedules Sunday work in addition to an 80-hour pay period. The shaded area of table 7 highlights the primary difference: INS pays overtime for the first 8 hours worked on Sundays in addition to pay for the regularly scheduled work week. (See app. II for additional comparisons.)

**Table 7: Comparison of GS-11, Step 7, Customs Officer's Earnings and Estimated Pay Under INS Pay Provisions for Pay Period 2, 2001**

| Pay provision                     | Customs                             | INS (est.)   | Difference    |
|-----------------------------------|-------------------------------------|--|---------------|
| Basic pay                         | \$2,060<br>80 @ \$25.75 hourly rate | \$2,060<br>80 @ \$25.75 hourly rate                                | 0             |
| Overtime (Sunday) <sup>a</sup>    | \$670<br>13 @ 2 x hourly rate       | \$1,545<br>16 x 2 x hourly rate<br>28 @ hourly rate                | +\$875        |
| Overtime (Mon.-Sat.) <sup>b</sup> | \$631<br>12.25 @ 2 x hourly rate    | \$743<br>4.25 @ 1.5 x hourly rate <sup>c</sup><br>24 @ hourly rate | +112          |
| Sunday premium pay <sup>a</sup>   | \$206<br>16 @ 0.5 x hourly rate     | 0  | -\$206        |
| <b>Total pay</b>                  | <b>\$3,567</b>                      | <b>\$4,348</b>   | <b>+\$781</b> |

<sup>a</sup>In addition to working two scheduled 8-hour Sundays for which the Customs officer was paid basic pay and a 50-percent premium, the officer worked 13 hours of overtime ( 6 hours the first Sunday and 7 hours the second Sunday) and was paid at 2 times the hourly rate. Under INS provisions, the officer would have been paid 2-days' pay for both Sundays and 28 hours of 1931 Act overtime for the additional 13 hours of overtime worked on the two Sundays.

<sup>b</sup>The Customs officer worked 12.25 hours of overtime Monday through Saturday and was paid at 2 times the hourly rate. Under INS pay provisions, the officer would have been paid 4.25 hours of 1945 Act overtime at 1.5 times the hourly rate for inspection overtime worked between 8 a.m. and 5 p.m. and 24 hours of 1931 Act overtime for 8 hours of overtime worked between 5 p.m. and 8 a.m.

<sup>c</sup>\$19.53 was the hourly rate of a GS-10, step 1, the maximum hourly rate for 1945 Act (FEPA) overtime in calendar year 2001.

Source: GAO analysis of Customs and INS data.

## Agency Comments and Our Evaluation

We requested comments on a draft of this report from the Commissioners of Customs and INS. On October 19 and 22, INS provided comments from several of its offices. Many of the comments referenced the limited scope of our review. For example, the Assistant Commissioner, Human Resources and Development, commented, in part, that "It is the limited scope of this current study, which addresses a single land border crossing, that restricts its applicability and use in drawing broad comparisons and conclusions." As discussed with our requester, our objective was not to do a comprehensive review of the two pay systems but to identify differences and show the effect of some of the differences on Customs and INS officers' pay. We believe that our pay comparisons sufficiently illustrate that the two pay systems are very different and do not lend themselves to side-by-side comparisons.

In addition, INS' Assistant Commissioner, Human Resources and Development, commented that tables 6 and 7 in the draft report were limited in their usefulness because of a lack of information regarding when the officers performed the work during the workweek. We believe that the

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notes to tables 6 and 7 sufficiently explain when the officers worked both regularly scheduled shifts and overtime.

INS' Acting Executive Associate Commissioner, Office of Programs, commented that we should have provided a more detailed analysis of a major difference between the two systems; overtime pay being included in the retirement calculation for Customs officers but not for INS officers. We noted this in two instances in the report (see pp. 2 and 10), but did not perform a detailed analysis of the annuities because our focus was on differences in pay for work performed at the ports of entry, not on total compensation packages.

INS officials provided additional technical comments, which we have incorporated where appropriate.

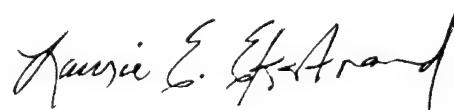
On October 25, Customs provided comments on the draft report. The Director, Office of Planning, said that most of Customs' concerns had been addressed through discussions with the audit team. The Director provided other technical comments, which we have included where appropriate.

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As agreed with your office, unless you publicly announce its contents earlier, we plan no additional distribution of this report until 30 days from its issue date. At that time, we will send copies of this report to the Chairman of the Senate Caucus on International Narcotics Control; Chairman and Ranking Minority Member of the Senate Committee on Finance; and Chairmen and Ranking Minority Members of the House Ways and Means Committee and its Subcommittee on Trade. We will also send copies to the Attorney General; Secretary of the Treasury; Commissioner of Customs; Commissioner, Immigration and Naturalization Service; and others upon request.

The key contributors to this report are acknowledged in appendix III. If you or your staff have any questions about this report, please contact me on (202) 512-8777 or Darryl W. Dutton on (213) 830-1000.

Sincerely yours,



Laurie E. Ekstrand  
Director, Justice Issues

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# Appendix I: San Ysidro Land Border Port Profile

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## Appendix I: San Ysidro Land Border Port Profile

San Ysidro is the largest and busiest land border port in the world. According to Customs, in fiscal year 2000, almost 40 million people passed through the 24-hour port of entry; they arrived in vehicles (32 million), buses (76,000), and as pedestrians (12.6 million).

Entry into the United States is granted by either Customs or INS officers, who share primary inspection responsibilities at the port. As of May 2001, San Ysidro had approximately 122 Customs officers<sup>1</sup> and approximately 132 INS officers responsible for inspecting people and vehicles entering the United States.

Customs' work schedules were

- Two 40-hour work weeks;
- 5 days a week; 8-hour workdays within a 7-day week;
- Regularly scheduled Saturdays and Sundays; and
- No alternate work schedules.

Customs' most heavily staffed shifts were

- 8 a.m.–4 p.m. (36 officers),
- 4 p.m.–12 a.m. (36 officers),
- 12 a.m.–8 a.m., Monday–Friday (15 officers), and
- 12 a.m.–8 a.m., Saturday–Sunday (18 officers).

INS' work schedules were

- One 80-hour pay period;
- 6-day work week, Monday–Saturday;
- Sunday not regularly scheduled (always overtime); and
- Alternate work schedules (typically eight 9-hour days and one 8-hour day).

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<sup>1</sup> This number does not include officers assigned to Otay Mesa port-of- entry and does not include canine enforcement officers.

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**Appendix I: San Ysidro Land Border Port  
Profile**

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INS' most heavily staffed shifts were

- 5 a.m.–3 p.m. (10 officers),
- 6 a.m.–3 p.m. (34 officers),
- 3 p.m.–12 a.m. (42 officers), and
- 12 a.m.–9 a.m. (16 officers).

# Appendix II: Additional Examples of Effects of Differences in Customs and INS Pay Provision Comparisons

Appendix II: Additional Examples of Effects of Differences in Customs and INS Pay Provision Comparisons

In addition to the two pay comparisons presented on pages 11 and 12, we performed four comparisons that show differences in Customs and INS pay, which varied depending on schedules and shifts worked. For example, a GS-11, step 7, San Ysidro INS officer who worked the 3 p.m.–to-12 midnight shift, including one weekday holiday and two Sundays during the pay period, would have earned \$21 less under Customs pay provisions. The difference is primarily because INS pays 2-days' pay plus basic pay for a holiday, and Customs pays 1-day's pay plus basic pay for the holiday. This difference is partially offset, however, by Customs' paying night differential to an officer on annual leave (vacation); INS pays limited night differential to officers while they are on leave. The INS officer in our example was on leave for 3 days during the pay period. In addition, Customs also pays a higher night differential rate; 15-percent versus a 10-percent premium for INS.

The shaded areas of table 8 highlight the primary differences; INS' higher holiday pay, Customs' higher night differential pay, and Customs' night differential paid to an officer on leave.

**Table 8: Comparison of GS-11, Step 7, INS Officer's Earnings and Estimated Pay Under Customs Provisions for Pay Period 3, 2001**

| Pay provision                  | INS                      | Customs (est.) | Difference   |
|--------------------------------|--------------------------|----------------|--------------|
| Basic pay                      | \$2,060                  | \$2,060        | 0            |
| 80 @ \$25.75 hourly rate       | 80 @ \$25.75 hourly rate |                |              |
| Overtime (Sunday) <sup>a</sup> | \$824                    | \$824          | 0            |
| 16 x 2 x hourly rate           | 16 @ 2 x hourly rate     |                |              |
| Holiday pay <sup>b</sup>       | \$412                    | \$206          | -\$206       |
| 16 @ hourly rate               | 8 @ hourly rate          |                |              |
| Night pay <sup>c</sup>         | \$93                     | \$278          | +\$185       |
| 36 @ 0.10 x hourly rate        | 72 @ 0.15 x hourly rate  |                |              |
| <b>Total pay</b>               | <b>\$3,389</b>           | <b>\$3,368</b> | <b>-\$21</b> |

<sup>a</sup>The INS officer's Sunday pay was in addition to 80 hours of regularly scheduled work. If working under Customs pay provisions, the officer would have been paid overtime at 2 times the hourly rate for the same hours, rather than 1.5 times the hourly rate (hourly rate plus 50-percent Sunday premium), because the officer worked the Sunday hours in addition to the regularly scheduled work week.

<sup>b</sup>The INS officer was paid 2-days' pay for a Monday-Saturday holiday in addition to 1-day's basic pay (3 days' pay in total). Under Customs pay provisions, the officer would have been paid a 1-day premium for the holiday in addition to 1 day's basic pay (2-days' pay in total).

<sup>c</sup>The INS officer received a 10-percent night differential for 36 hours worked between 6 p.m. and 6 a.m., but no night differential while on 3 days' annual leave. The officer received night differential for the holiday. Under Customs pay provisions (the majority of hours provision), the officer would have been paid, a 15 percent night differential for 72 hours, including night differential while on 3 days leave. Under Customs pay provisions, the officer would not have been paid night differential for the holiday.

Source: GAO analysis of Customs and INS data.

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**Appendix II: Additional Examples of Effects  
of Differences in Customs and INS Pay  
Provision Comparisons**

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In another example, a GS-9, step 4, San Ysidro INS officer who worked the 12 midnight-to-9 a.m. shift, 2 Sundays, and overtime during the week would have earned \$402 more under Customs pay provisions. The difference is primarily due to Customs paying a higher overtime rate Monday through Saturday, Sunday commute pay, and higher night pay than INS. The shaded areas of table 9 highlight the primary differences in pay.

**Table 9: Comparison of GS-9, Step 4, INS Officer's Earnings and Estimated Pay Under Customs Provisions for Pay Period 2, 2001**

| <b>Provision</b>                  | <b>INS</b>               | <b>Customs (est.)</b> | <b>Difference</b> |
|-----------------------------------|--------------------------|-----------------------|-------------------|
| Basic pay                         | \$1,561                  | \$1,561               | 0                 |
| 80 @ \$19.51 hourly rate          | 80 @ \$19.51 hourly rate |                       |                   |
| Overtime (Sunday) <sup>a</sup>    | \$624                    | \$624                 | 0                 |
| 16 x 2 x hourly rate              | 16 @ 2 x hourly rate     |                       |                   |
| Overtime (Mon.-Sat.) <sup>b</sup> | \$468                    | \$546                 | +\$78             |
| 12 @ hourly rate                  | 14 @ 2 x hourly rate     |                       |                   |
| 8 @ 1.5 x hourly rate             |                          |                       |                   |
| Commute (Sunday) <sup>c</sup>     | 0                        | \$117                 | +\$117            |
|                                   |                          | 6 @ hourly rate       |                   |
| Night pay <sup>d</sup>            | \$105                    | \$312                 | +\$207            |
| 54 @ 0.10 x hourly rate           | 80 @ 0.20 x hourly rate  |                       |                   |
| <b>Total pay</b>                  | <b>\$2,758</b>           | <b>\$3,160</b>        | <b>+\$402</b>     |

<sup>a</sup>The INS officer's Sunday pay was in addition to 80 hours of regularly scheduled work. If working under Customs pay provisions, the officer would have been paid overtime at 2 times the hourly rate for those same hours, rather than 1.5 times the hourly rate (hourly rate plus 50-percent Sunday premium), because the officer worked the Sunday hours in addition to the regularly scheduled work week.

<sup>b</sup>The INS officer was paid 12 hours of 1931 Act overtime for 6 hours overtime worked between 5 p.m. and 8 a.m. The officer also worked 8 hours of 1945 Act inspection overtime between 8 a.m. and 5 p.m. and was paid at 1.5 times the hourly rate. Under Customs pay provisions, the officer would have been paid for 14 hours of overtime at 2 times the hourly rate.

<sup>c</sup>The INS officer was not authorized to receive commute pay under INS pay provisions. Under Customs pay provisions, the officer would have been paid 6 hours commute pay for returning to work on two Sundays, at 3 times the hourly rate, to perform overtime assignments.

<sup>d</sup>The INS officer received a 10-percent night differential for 54 hours worked between 6 p.m. and 6 a.m. Under Customs pay provisions, because the majority of hours worked were between 11 p.m. and 8 a.m., the officer would have been paid a 20-percent differential for 80 hours.

Source: GAO analysis of Customs and INS data.

Another example shows that a GS-11, step 7, San Ysidro Customs officer who worked the 4 p.m.-to-midnight shift, including 2 Sundays and overtime on Sunday and during the week, would have received \$79 more under INS pay provisions. The difference was primarily due to the officer receiving 2-days' pay for Sunday overtime under INS provisions; Sunday was a regularly scheduled Customs workday, and the officer received only

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**Appendix II: Additional Examples of Effects  
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30 minutes of overtime, or \$26 extra. The shaded area of table 10 highlights the primary difference; INS pays overtime for the first 8 hours worked on Sundays, in addition to pay for the regularly scheduled workweek.

**Table 10: Comparison of GS-11, Step 7, Customs Officer's Earnings and Estimated Pay Under INS Pay Provisions for Pay Period 2, 2001**

| <b>Pay provision</b>            | <b>Customs</b>                   | <b>INS (est.)</b>  | <b>Difference</b> |
|---------------------------------|----------------------------------|--|-------------------|
| Basic pay                       | \$2,060                          | \$2,060  | 0                 |
| 80 @ \$25.75 hourly rate        |                                  | 80 @ \$25.75 hourly rate   |                   |
| Overtime (Sunday) <sup>a</sup>  | \$26<br>0.5 @ 2 x hourly rate    | \$427<br>8 x 2 x hourly rate<br>0.5 @ 1.5 x hourly rate <sup>b</sup> | +\$401            |
| Overtime (Mon-Sat) <sup>c</sup> | \$258<br>5 @ 2 x hourly rate     | \$147<br>5 @ 1.5 x hourly rate <sup>b</sup>                          | -111              |
| Sunday premium pay <sup>a</sup> | \$103<br>8 @ 0.5 x hourly rate   | 0<br>Does not apply  | -\$103            |
| Night pay <sup>d</sup>          | \$247<br>64 @ 0.15 x hourly rate | \$139<br>54 @ 0.10 x hourly rate                                     | -\$108            |
| <b>Total pay</b>                | <b>\$2,694</b>                   | <b>\$2,773</b>   | <b>+79</b>        |

<sup>a</sup>The Customs officer worked 8.5 hours on one of the Sundays. For that Sunday, the officer was paid basic pay and a 50-percent Sunday premium for 8 hours and 2 times the hourly rate for 30 minutes overtime. The Customs officer was on sick leave the other Sunday and received basic pay but was not paid Sunday premium for that day. Under INS pay provisions, the officer would have been paid 2 days' pay for the first 8 hours worked and 30 minutes of 1945 Act overtime at 1.5 times the hourly rate.

<sup>b</sup>\$19.53 is the GS-10, step 1, maximum hourly rate for 1945 Act (FEPA) overtime in calendar year 2001. Under INS pay provisions, an officer working in excess of 8 hours, but less than 9 hours on a Sunday or a holiday, would have been paid 1945 Act overtime at 1.5 times the hourly rate. The officer would also have been paid 1945 Act overtime for inspection overtime worked between 8 a.m. and 5 p.m., Monday through Saturday.

<sup>c</sup>The Customs officer was paid 5 hours of overtime at 2 times the hourly rate. Under INS pay provisions, the officer would have been paid for 5 hours of 1945 Act inspection overtime between 8 a.m. and 5 p.m. at 1.5 times the hourly rate.

<sup>d</sup>The Customs officer was paid a 15-percent night differential for 64 hours because the majority of hours worked were between 3 p.m. and 12 midnight. Under INS pay provisions, the officer would have been paid a 10-percent night differential for 54 hours worked between 6 p.m. and 6 a.m.

Source: GAO analysis of Customs and INS data.

In our last example, a GS-9, step 4, San Ysidro Customs officer who worked the 2 p.m.-to-10 p.m. shift, including one weekday holiday during the pay period, would have earned \$219 more under INS pay provisions.

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**Appendix II: Additional Examples of Effects  
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The difference was primarily due to the officer being paid for “rollback” (“callback” under Customs provisions) and 8 additional hours of holiday pay under INS provisions. The shaded areas of table 11 highlight the primary differences; INS would pay rollback and twice the holiday pay of Customs’ pay.

**Table 11: Comparison of GS-9, Step 4, Customs Officer’s Earnings and Estimated Pay Under INS Pay Provisions for Pay Period 3, 2001**

| <b>Pay provision</b>                               | <b>Customs</b>           | <b>INS (est.)</b> | <b>Difference</b> |
|--|--------------------------|-------------------|-------------------|
| Basic pay  | \$1,561                  | \$1,561           | 0                 |
| 80 @ \$19.51 hourly rate                           | 80 @ \$19.51 hourly rate |                   |                   |
| Overtime (Mon.-Sat.) <sup>a</sup>                  | \$576                    | \$624             | +48               |
| 14.75 @ 2 x hourly rate                            | 32 @ hourly rate         |                   |                   |
| Callback (Customs),<br>rollback (INS) <sup>b</sup> | 0                        | \$156             | +156              |
| Holiday Pay <sup>c</sup>                           | \$156                    | \$312             | +156              |
| 8 @ hourly rate                                    | 16 @ hourly rate         |                   |                   |
| Night pay <sup>d</sup>                             | \$211                    | \$70              | -141              |
| 72 @ 0.15 x hourly rate                            | 36 @ 0.10 x hourly rate  |                   |                   |
| <b>Total pay</b>                                   | <b>\$2,504</b>           | <b>\$2,723</b>    | <b>+219</b>       |

<sup>a</sup>The Customs officer was paid 14.75 hours of overtime at 2 times the hourly rate. Under INS pay provisions, the officer would have been paid 32 hours of 1931 Act overtime for 14.5 hours worked.

<sup>b</sup>Under INS pay provisions, the officer would have been paid 8 hours rollback at the hourly rate, or two hours pay at the basic overtime rate (four hours) on two weekdays, for working overtime that was not continuous to previously worked shifts.

<sup>c</sup>The Customs officer was paid a 1-day premium for the holiday in addition to 1-day's basic pay (2-days' pay in total). Under INS pay provisions, the officer would have been paid 2-days' pay for a Monday-Saturday holiday in addition to 1-day's basic pay (3 days pay in total).

<sup>d</sup>The Customs officer received a 15 percent night differential for 72 hours because the majority of hours worked were between 3 p.m. and midnight. Under INS pay provisions, the officer would have been paid a 10-percent night differential for 36 hours worked between 6 p.m. and 6 a.m.

Source: GAO analysis of Customs and INS data.

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<sup>1</sup>Additional pay at the basic overtime rate for reporting early or being called back for unscheduled inspections.

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# Appendix III: GAO Contacts and Staff Acknowledgments

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### GAO Contacts

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### Staff Acknowledgments

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